

Breaking the Silence: Creating the Future, Addressing Child Sexual Assault in Aboriginal communities in NSW

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Background

The Aboriginal Child Sexual Assault Taskforce (ACSAT) was established in response to the Roundtables on sexual violence in Aboriginal communities conducted by the NSW Department of Aboriginal Affairs in 2001/2 and to the finding of the Aboriginal Justice Advisory Council's 2002 report *Speak Out, Speak Strong* that approximately 70% of Aboriginal women in NSW prisons had been sexually assaulted as children.

Aims

ACSAT's primary aims were to examine child sexual assault in Aboriginal communities, review how government and non-government agencies in NSW respond and make recommendations about how these responses could be improved.

Method

Information for this report was gathered from:

- Review of literature and relevant research
- Written submissions, and other information, from government agencies
- Written submissions from non-government agencies and individuals
- Consultations with Aboriginal communities across NSW
- Consultations with government and non-government agencies.

The starting point for analysis was current research into child sexual assault in Aboriginal communities, the Aboriginal community's perspective of child sexual assault and the issues they identified with current service responses. This perspective was then matched with services provided by government and non-government agencies and gaps and barriers were identified. Recommendations were formulated to address these gaps and overcome barriers. (ACSAT recommendations, along with the outcomes these recommendations were formulated to achieve, are tabled at the end of this executive summary.)

Overview of findings

The Aboriginal community's perspective on child sexual assault

Child sexual assault was described as a 'huge issue' in every consultation ACSAT took part in. Both boys and girls were known to be victims and perpetrators were most often described as men who were grandfathers, fathers, step-fathers, uncles, cousins or brothers of the child. Often, perpetrators were also reported as being important people within the community.

Consultation participants often described child sexual assault in their communities as intergenerational and they explained this in a number of ways. Child sexual assault was seen as being passed from one generation to the next, where yesterday's victims were

becoming tomorrow's perpetrators. Some perpetrators had sexually assaulted a number of generations of children. Sibling abuse was considered rife and in some communities, the same perpetrator had sexually assaulted a whole generation of children from one extended family.

ACSAT found that child sexual assault was not well understood in Aboriginal communities, which meant it often went undetected. This lack of understanding also contributed to a culture of silence, denial, and inappropriate responses such as protecting the perpetrator rather than the child. It also made it possible for perpetrators to 'groom' their victim without being noticed. Communities believe that these factors, among others, enable the abuse to continue unchecked.

Child sexual assault in Aboriginal communities is seldom reported. Communities acknowledged that reporting was difficult for all victims of child sexual assault. They felt that this difficulty was compounded for Aboriginal children by factors such as complex extended family and community networks; geographic isolation; mistrust of the service system; and poor responses from existing service providers.

Community attitudes as to what should happen to perpetrators varied. However, a number of participants stressed the importance of having a clear understanding of the dynamics of child sexual assault before making any decisions about treatment of perpetrators.

Every community spoken to by ACSAT agreed that child sexual assault has a devastating, and life-long, impact on those who experience it and on their families and communities. Consultation participants believed that child sexual assault is one of the key, underlying factors in the high levels of violence, substance abuse, criminally offending behaviour and mental health issues that many Aboriginal communities are grappling with today. Research supports these links.

Communities and research identified a number of factors that influenced the incidence of child sexual assault. These include: substance abuse; social and economic disadvantage; exposure to pornography and a sexualised society; the 'normalisation' of violence (or intergenerational cycle of violence); the presence of family violence; unresolved trauma and grief; breakdown of family and community structures; lack of community engagement with the issue; lack of support for community-driven solutions; and inadequate responses from service providers.

The relationship between child sexual assault and family violence

There is little research that specifically considers the relationship between child sexual assault and family violence. The research that there is suggests there is a strong link between the two forms of violence. Communities and research suggest that the presence of family violence in Aboriginal communities has a number of consequences that can influence the incidence of child sexual assault.

The statistics

Data collected by NSW Government agencies suggest that Aboriginal females are almost two and half times more likely to be victims of child sexual assault than non-Aboriginal females. However, this data only reflects incidents of child sexual assault in Aboriginal communities that are reported and where the Aboriginality of the victim is recorded. It is widely accepted that child sexual assault is an under-reported crime, particularly when it occurs in Aboriginal communities.

There are a number of issues with the way data is collected by NSW government agencies, including: inconsistent recording of Aboriginality; use of different key definitions across agencies; agencies recording data across different time periods; information being lost because the categories used to collect data are sometimes ambiguous. These issues result in data being less useful than it could be and also makes it difficult to correlate and compare data across agencies.

Government responses to child sexual assault in Aboriginal communities

Barriers to accessing government services

Consultations and research identified the following barriers to Aboriginal people accessing government services:

- There is a lack of awareness and understanding about child sexual assault among Aboriginal communities, and about child sexual assault in Aboriginal communities among government and non-government service providers, and this is impacting on the levels of reporting and on the way services respond.
- Past inappropriate government practices, particularly those of community services and police, continue to impact negatively on the perceptions that many Aboriginal people have of government agencies and on their willingness to involve these agencies when crimes such as child sexual assault are perpetrated. Many community members still feel fear and mistrust towards government services and report feeling disempowered when government service providers become involved in their lives. Whenever a service provides an inappropriate response to an Aboriginal person, these negative perceptions are reinforced.
- Many Aboriginal people are not clear about what government services actually do. Alternatively, they know about some of the basic or well-known services (such as Department of Community Services (DoCS) having the power to remove children) but not the breadth of services offered or the support services available (for example DoCS (via non-government organizations (NGOs)) also provide family support services and child sexual assault counsellors). As a result of this lack of awareness, communities were not even trying to access a range of services that they may be entitled to. For example, most Aboriginal communities are unaware that emergency and alternative Department of Housing (DoH) accommodation is available to families in crisis as a result of child sexual assault, so they are not trying to use this service.
- Communities also reported being confused about the range of ways services are provided and the differences between one service type and another. For example people often asked ACSAT ‘what’s the difference between a Joint Investigative Response Team (JIRT) response and a police response?’ or said things like ‘there are so many different health services around, I don’t know which one I am supposed to

go to'. This uncertainty about which service to use can result in people not accessing any service.

- There are not enough Aboriginal specific services, or services that effectively meet the needs of Aboriginal communities. This is particularly so in agencies such as DoCS and Department of Juvenile Justice (DJJ), where Aboriginal people make up a considerable proportion of the client base. (In 2002/03, 17% of all DoCS substantiated cases of child abuse and neglect involved Aboriginal children and 24% of all children and young people in out-of-home care were Aboriginal. In 2003/04, Aboriginal children and young people made up 43% of the average number of children and young people in custody in DJJ facilities on any given day.)
- Some services are difficult to physically access, particularly in rural and remote areas where people may have to travel hundreds of kilometres to access a service.

Issues with services provided and service gaps

- Across most agencies, communities reported that some staff were working well with communities, putting in effort, building relationships and providing effective services.
- Some services were received well by communities, for example the Family Violence Prevention Legal Service for Indigenous victims of family violence (funded by the Commonwealth) and the services provided by the DoCS Aboriginal Child, Youth and Family Strategy. ACSAT believes that these services could be expanded and the models could be built on.
- Communities report that most NGOs provide a flexible service that responds to their needs. For many Aboriginal people, NGOs are the only service they will use.
- Participants described actions and comments that suggest that some government agency staff do not understand Aboriginal culture, the importance of family and community networks, how local communities work and the different communication styles that Aboriginal people may use. As a result, service providers were sometimes responding in ways that were inappropriate or irrelevant to Aboriginal people or were conducting interviews in ways, and in locations, that are unlikely to be effective.
- Communities reported instances where services responded in inappropriate ways and it was clear to ACSAT that these responses compounded Aboriginal people's fear and mistrust of government services and further alienated them from the government service system. Some of the inappropriate responses reported include: responses that are seen as, or are, racist or inconsistent; times when services such as DoCS or Police didn't respond at all, even when a response was clearly required; or times when services over-responded, 'turning up on someone's doorstep all the time and not letting people make decisions about their children'.
- Communities consistently reported a lack of feedback from services such as DoCS and police, saying that once a report was made they often heard nothing further about the matter so they didn't know if the child was safe or an investigation was taking place or anything. Communities interpreted this lack of feedback as 'service providers taking no action on their case' and believed that service providers 'didn't care and weren't interested'.
- Communities often reported that they didn't feel supported by Joint Investigative Response Teams (JIRT) and they didn't know that NSW Health was even a part of JIRT. JIRT needs to build relationships with local and regional support services and

let these agencies know how to provide support in ways that will not impact on an investigation.

- Key services such as DoCS and police are not always providing appropriate referrals for support to children and young people who have experienced child sexual assault and their families.
- Consultations identified a need for a network of advocacy and support workers who can provide support to Aboriginal families who have experienced child sexual assault from disclosure through to recovery. NSW Health was considered the ideal agency to host this network as most communities reported a good rapport with their local health services.
- ACSAT found that most service responses to child sexual assault were not being provided in a holistic way. A holistic response would include: understanding Aboriginal families and communities as interlinked networks; providing coordinated service responses; effective interagency guidelines; unifying definitions of child sexual assault across agencies; addressing child sexual assault at the same time as addressing social and economic disadvantage; and appropriate physical locations for services. Services need to be provided holistically and this needs to be effectively coordinated.
- There are few stable out-of-home care placements available for Aboriginal children and young people. In some instances, children have been placed in out-of-home 'kinship' care but have remained exposed to risk of violence and sexual assault from someone within this care environment. DoCS need to thoroughly assess and monitor out-of-home care placements to ensure they are safe for children *before* a child is placed there. Where a stable 'kinship' out-of-home care placement exists, DoCS need to provide adequate financial and other supports to enable it to continue.
- There are not enough forensic services available, particularly in rural and remote areas.
- There are few services available for young people aged between 16-18 years old. ACSAT found that this age group has a very real and urgent need for support, both to help them deal with experiences of child sexual assault as well as to cope with the current circumstances of their lives, which may include pregnancy and/or substance abuse.
- Sexually transmitted infections in children and young people under the age of 16 years are often not being reported to DoCS even though doctors and other medical staff are mandated to do so.
- Research suggests that there is a link between child sexual assault victimisation and criminally offending behaviour, yet DJJ or Department of Corrective Services (DCS) run no programs that address child sexual assault for children, young people or adults who are incarcerated.
- ACSAT found that further research is required about the specific support needs of Aboriginal children in schools and the best ways to provide this support.
- The NSW Commission for Children and Young People currently has no programs that specifically address the safety and well-being of Aboriginal children and young people.

Access to counselling and support to address child sexual assault (including service gaps)

- There is limited access to publicly funded (free) counselling. Access to publicly funded counselling for child sexual assault is available from NSW Health Sexual Assault Services, DoCS funded child sexual assault counsellors who work out of NGOs and Victims Services' Accredited Counselling Scheme (which has a 22-hour time cap). However, ACSAT found that there were few counsellors available who could effectively respond to Aboriginal experiences of child sexual assault and few Aboriginal counsellors. There are long waiting lists for most counsellors and stringent referral mechanisms can make counselling difficult to access for many Aboriginal people.
- Some drug and alcohol and some mental health services were not adequately responding to the likelihood that their clients may have experienced child sexual assault.
- A counselling model that is appropriate for Aboriginal people needs to be researched and developed.
- DJJ report that children and young people may have access to counselling if they identify as a victim of child sexual assault or its screening process identifies them as a victim. However, ACSAT found that DJJ's screening process was unlikely to identify Aboriginal victims of child sexual assault and Aboriginal children and young people were unlikely to disclose. There are no support programs provided to Aboriginal detainees that address child sexual assault and access to teachings on protective behaviours is limited.
- DCS reports that some counselling support may be provided to female adult offenders who disclose a child sexual assault history (organised by NSW Justice Health). However, adult male offenders who disclose a child sexual assault history are discouraged from addressing the issue while they are incarcerated.
- DCS does not try and identify survivors of child sexual assault on admission and provides no support programs that address the issue. In DCS programs for inmates that aim to reduce the likelihood of re-offending, ACSAT found no specific reference to the experience of child sexual assault as a possible causal factor in offending behaviour. Data about inmates who are also survivors of child sexual assault is not collected, so DCS does not have an overview of the extent of the issue among the Aboriginal prison population.

Court processes

- Recent legislative amendments and a number of initiatives trialled in the Child Sexual Assault Specialist Jurisdiction Pilot have begun to improve the experiences of children, young people and their families going through the court process. However, the court process remains long and traumatic.
- Consultation participants who had received support from an Office of the Director of Public Prosecutions' (ODPP) Witness Assistance Service (WAS) officer said that they had felt supported. Most people who were aware of the service said they would prefer to receive this support from an Aboriginal WAS officer. However, at the time of this inquiry, only three Aboriginal WAS officers were employed. ODPP reports

that even though not all Aboriginal cases can be supported by an Aboriginal WAS officer, these officers do have input into most Aboriginal matters.

- WAS officers and prosecutors need a greater understanding of Aboriginal culture and Aboriginal experiences of child sexual assault in order to provide effective support to Aboriginal victims of this crime and their families and successfully prosecute offenders in child sexual assault matters where the victim is Aboriginal.
- Some judicial officers seem to have little understanding of Aboriginal culture and an incomplete understanding of child sexual assault and ACSAT believes that this impacts on their capacity to provide fair arbitration in these matters.
- Sentencing of sex offenders is perceived as inconsistent and is considered by many to be too lenient. There is no mechanism for Aboriginal community involvement in sentencing of Aboriginal offenders in child sexual assault cases.
- There is a lack of culturally appropriate material explaining court processes and preparing people for court.

Treatment for sex offenders

- Outside of correctional facilities, ACSAT identified one pre-trial diversion sex offender treatment program for adults (Cedar Cottage) and one treatment program for adolescents (New Street Adolescent Service). For adult offenders, eligibility requires a criminal charge and a guilty plea. For adolescents, eligibility requires the sexual offence to be substantiated by DoCS. Neither program appears to have been very successful for Aboriginal people with small numbers of Aboriginal people referred to the program and even fewer completing it.
- DCS runs a number of treatment programs for adult sex offenders while they are incarcerated. These are not Aboriginal specific. DCS has developed a 16-session Aboriginal cultural program that runs alongside its CUBIT treatment program and aims to help Aboriginal offenders get more out of the treatment. It is not known how effective the treatment program, or the cultural program, is in reducing the likelihood of re-offending among Aboriginal sex offenders.
- DJJ runs a treatment program for young sex offenders. This is not Aboriginal specific. DJJ report that each detainee is assessed by a counsellor, who will then tailor the program to meet the individual's needs. At the time of this inquiry, none of the counsellors were Aboriginal and it was not known how effective the program was for young Aboriginal sex offenders.
- There are no publicly funded treatment programs for children, young people or adults who display sexually offending behaviour but are not yet implicated in the child protection or criminal justice system.
- Communities reported that the transition of a sex offender back into the community is often conducted without community involvement and without adequate support from DCS and this is putting children and young people at risk.

Education and training about child sexual assault

- No government agency provides training for its staff that specifically addresses child sexual assault in Aboriginal communities.
- The Education Centre Against Violence (ECAV) provides most of the training about child sexual assault in NSW, both for NSW Health staff and for staff of other relevant

agencies that work with children and young people. The Centre for Community Welfare Training also provides training for staff employed in the community services sector.

- ECAV has developed a training program for Aboriginal communities (*Weaving the Net*) that aims to increase the community's capacity to respond to child abuse. This course is run if requested by communities and ECAV's resources permit (which at the time of this inquiry was only a couple of times a year.)
- Child protection, protective behaviours and healthy relationships are taught to all students in all NSW schools as part of the Personal Development, Health and Physical Education (PDHPE) curriculum.
- ACSAT found that the human services courses, welfare courses and counselling courses being offered through TAFE could include specific teaching about child sexual assault in Aboriginal communities.

Organisational issues

Planning

- The Commonwealth and NSW Governments have agreed frameworks for working together, and with Aboriginal communities, to provide services to Aboriginal communities and improve outcomes for Indigenous Australians.
- All NSW Government agencies have policies that guide the way they provide services to Aboriginal people, although few have been evaluated so it is difficult to ascertain how effective they are. The notable exception to this is NSW Police *Aboriginal Strategic Direction*, which was developed to help NSW Police build better relationships with Aboriginal communities and reduce crime. The implementation of this plan is being audited at the Local Area Command level by the NSW Ombudsman. This process identifies areas where implementation has been successful and areas where it has not. The findings of the audit are consistent with the findings of ACSAT. That is, where police make efforts to get to know communities, the relationship improves, the crime rate decreases and reports of crime increase.
- At both the Commonwealth and State Government level, child sexual assault is addressed within the broader framework of child protection and preventing child abuse. While both governments have policy frameworks on child protection, there is no national or state policy framework that specifically outlines the government's position on child sexual assault. Child sexual assault has not been included in the Bilateral Agreement currently being finalised between the Commonwealth and NSW Government, so there are no guidelines about how the governments will work together on this issue. Child sexual assault is not explicit in the current *Two Ways Together – Aboriginal Affairs Plan* framework.
- Child sexual assault in Aboriginal communities is currently not on local, regional, state or national agendas and there is limited government leadership of the issue at the political or the agency level. The NSW and Commonwealth Governments have a role in putting child sexual assault on the agendas of all levels of planning and in providing leadership for the issue to ensure it stays on the agenda.

Employing Aboriginal staff

- In every consultation, and across every agency, Aboriginal communities said they would like to see more Aboriginal people employed. Although this is an issue across the board, specific areas where more Aboriginal staff were needed were JIRT, female Aboriginal Community Liaison Officers with NSW Police, counsellors and support workers in sexual assault and forensic services, Witness Assistance Service officers and student support and welfare workers in NSW schools.
- Most government agencies are also committed to employing more Aboriginal staff and have developed Aboriginal recruitment strategies to help them do it. However, a number of agencies, for example DoCS and NSW Police, report having difficulty attracting Aboriginal staff. This suggested to ACSAT that agencies needed to develop more innovative and lateral recruitment strategies.
- During consultations, many Aboriginal staff of government agencies reported feeling overworked and overwhelmed by what they were expected to do within their jobs. They also said they didn't feel properly supported by the government agency employing them and this led to high rates of worker burn-out and a high turnover of Aboriginal staff. They suggested that if government agencies provided adequate support and training to their Aboriginal staff, they would retain staff longer and be able to attract more staff into their employ.
- Communities and service providers acknowledge that it was sometimes a challenge to find qualified Aboriginal staff for certain positions, for example as counsellors. Communities suggested that government agencies needed to help Aboriginal people to gain professional qualifications so they could take up these positions.

Funding

- More funding is required for local Aboriginal initiatives to address child sexual assault is required from the NSW and Commonwealth Governments.
- Many NGOs reported that there is insufficient funding for them to provide a service that truly meets community need. There is a prevalence of one-off, project funding available and they believed that this leads to an ad hoc delivery of services.

Alternative models for addressing child sexual assault

ACSAT looked in detail at the model currently being implemented in NSW and then searched for areas within Australia and around the world where a modified or different model is being used to effectively respond to child sexual assault in Indigenous communities.

In this context, ACSAT considered the differences in approach between adversarial (where cases are tried in a court before an impartial judge and guilt must be proven beyond reasonable doubt), inquisitorial (where the court is actively involved in determining the facts of a case) and restorative (where key parties to the dispute meet with the aim of repairing harm) systems of dispensing justice, as well as identifying different ways of working with existing services and new ways of responding.

The alternative models being implemented outside of NSW that are discussed are:

- Specialist sexual offences courts in South Africa, where certain courts have been dedicated to prosecuting sexual offence cases.

- Cherbourg Critical Incident Group in Queensland, where a group of community women meet with other community members and government agencies on a regular basis to develop and drive a local response to child sexual assault in the Cherbourg community.
- The Community Holistic Circle Healing process of Hollow Water, Canada, a model developed by an Indigenous Canadian community where a disclosure of child sexual assault triggers an immediate *community* response which supports and protects the victim and begins ‘working with’ the offender to get them to admit to the offence. If the offender admits their guilt, they are offered the choice of going through the criminal justice system or remaining in the community and participating in an intensive community-based treatment and healing process. If the offender does not admit their guilt, the community hands them over to the police.

ACSAT considers the discussion of alternative models to be introductory rather than definitive. The theory and principles behind each approach is complex and the appropriateness of various responses to child sexual assault in Aboriginal communities requires careful consideration and thorough research.

Creating the Future

ACSAT has completed a thorough review of child sexual assault in Aboriginal communities and the way the NSW Government and non-government sectors respond. This review has identified the devastating effects that child sexual assault is having on Aboriginal communities and an overwhelming desire among community members for the abuse to stop and healing to begin. It has also revealed a comprehensive government system of child protection and criminal justice that has many barriers and gaps in the way services are provided to Aboriginal people. These barriers and gaps are rendering this response ineffective for most Aboriginal people who are seeking help for child sexual assault.

ACSAT has formulated many recommendations that aim to overcome these barriers to access and eliminate service gaps. Once implemented, these measures will allow both the government and the community to work together more effectively and in turn, provide more positive outcomes to Aboriginal people.

However, ACSAT believes that more is required. Aboriginal communities have a vision — an effective, cooperative response to child sexual assault that is *community driven* and works with government agencies in genuine partnership. This would require a new model.

ACSAT believes that in order to truly realise the vision of Aboriginal communities, the recommendations of this Taskforce need to be implemented at the same time as a new model for responding to child sexual assault in Aboriginal communities is researched and developed.

The full report can be found at www.lawlink.nsw.gov.au/acsat.